

# Public Charities Can Lobby: How Your 501(c)(3) Can Influence Policy for the Greater Good

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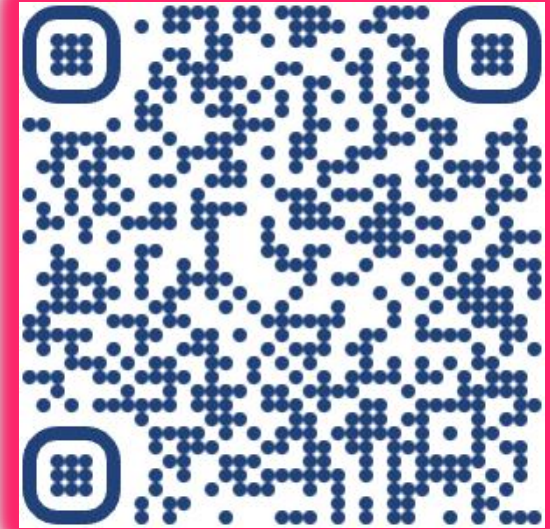
**ALLIANCE  
FOR  
JUSTICE**

*Building Power.  
Transforming Courts.  
Securing Justice for All.*

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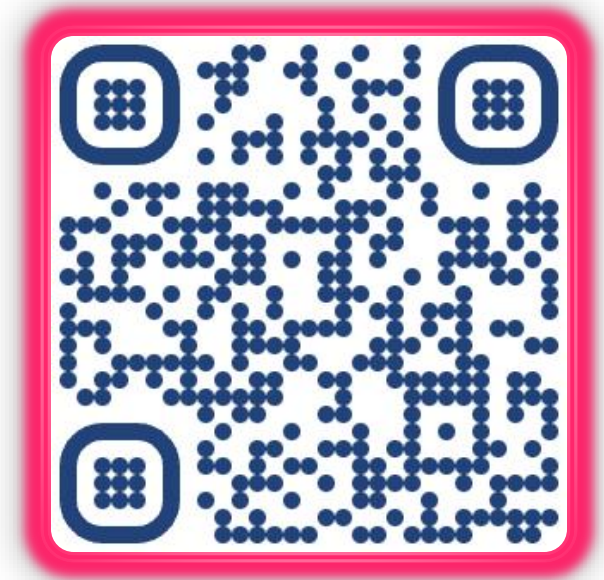
Alliance for Justice (AFJ) is an association of 130+ organizations, that share a commitment to an ***equitable, just, and free society***.

We build the strength of progressive movements by training and educating nonprofit organizations on advocacy, while harnessing their collective power to transform our state and federal courts.



Become an AFJ member today!

AFJ's **Bolder Advocacy** program equips nonprofits with the knowledge and tools necessary to engage in bold and effective advocacy. We build the power of grassroots organizations to reform systems and promote positive policy change.



Learn more about Bolder Advocacy's workshops, technical assistance, and other legal resources.

The information discussed in this presentation is provided for  
**informational purposes only**  
and not as part of an attorney-client relationship.

This presentation is not a substitute for legal, tax, or other professional advice tailored to your specific circumstances, and it may not be relied upon to avoid penalties that may be imposed under federal, state, or local law.

# Today's Agenda

- What is Advocacy and Lobbying?
- Comparing Tax Exempt Organizations
- How to Measure Your Lobbying Limits
- Lobbying Definitions & Exceptions
- Key Takeaways and Resources

# What is Advocacy & Lobbying?

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# Advocacy & Lobbying

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- Advocacy is an activity that supports a cause or proposal. It is a tool used by nonprofit organizations to advance their missions.
- Lobbying is a specific type of advocacy designed to influence specific legislation.



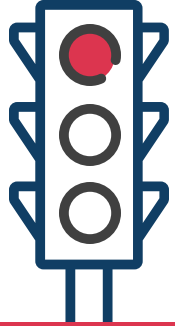
# Comparing Tax Exempt Organizations

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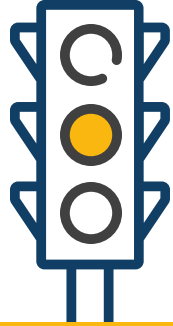


	<b>501(c)(3)</b> <i>(Public Charities)</i>	<b>501(c)(4)</b> <i>(Social Welfare Orgs)</i>	<b>527</b> <i>(Political Orgs)</i>
<b>Examples</b>			
<b>Tax Treatment</b>	Tax-exempt Tax-deductible contributions	Tax-exempt	Tax-exempt
<b>Lobbying Activities</b>	Limited	Unlimited	Rare & usually taxable
<b>Electoral Activities</b>	Cannot support or oppose candidates	Secondary activity	Usually, sole activity

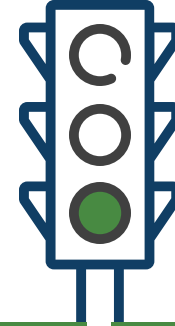
# Advocacy for 501(c)(3) Public Charities



Partisan  
Political



Lobbying  
(Limited)



Organizing

Public  
Education

Nonpartisan  
Voter Ed.

Influencing  
Corporations

Educating  
Legislators

Educational  
Conferences

Lobbying  
Exceptions

Regulatory  
Efforts

Get to Know  
Legislators

Research

Training

Litigation

# How to Measure Your Public Charity's Lobbying Limits

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## Insubstantial Part Test

- Default test for all public charities
- No clear definition of lobbying or set lobbying limits
- ~ 3-5% of activities
- Both paid and unpaid time (volunteer time) count towards lobbying limit

## 501(h) Expenditure Test

- One-time election – IRS Form 5768
- Clear definitions and limits
- Starts at 20% of budget
- Unpaid time (volunteer time) doesn't count toward limit
- Able to engage in more advocacy



1. Calculate organization's
2. Overall lobbying limit

**Exempt Purpose  
Expenditures**

ANNUAL EXPENDITURES	OVERALL LOBBYING LIMIT
\$500,000 or less	20%
\$500,000 to \$1 million	\$100,000 + 15% of excess over \$500,000
\$1 million to \$1.5 million	\$175,000 + 10% of excess over \$1 million
\$1.5 million to \$17 million	\$225,000 + 5% of excess over \$1.5 million
Over \$17 million	\$1,000,000

3. Grassroots lobbying limit is 25% of overall limit

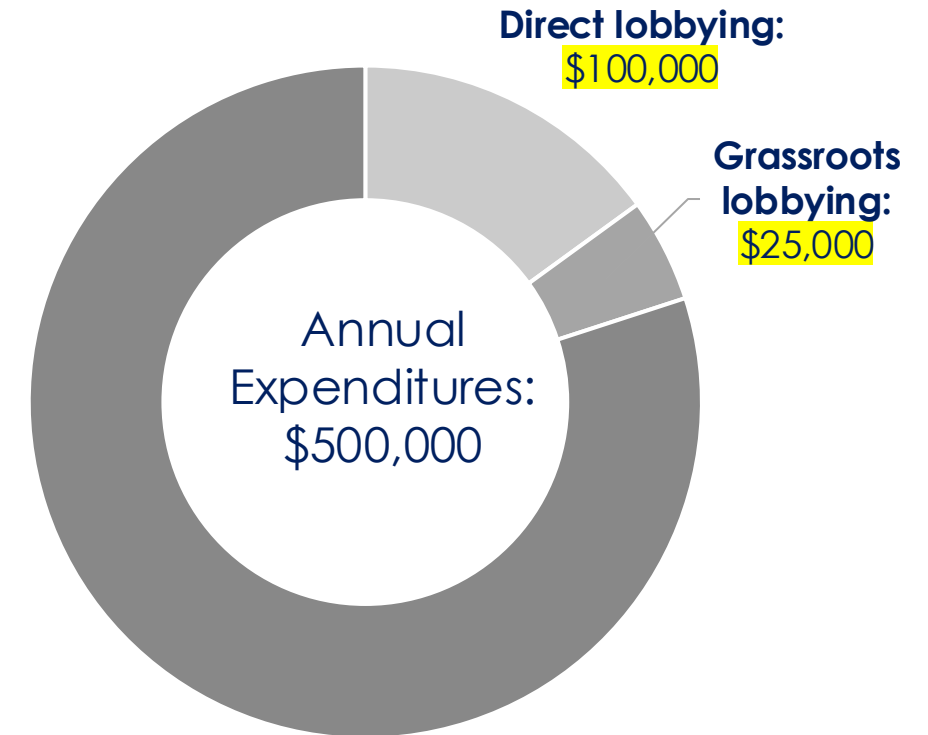
# Calculating Your Lobbying Limit

(under 501 (h))

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**EXAMPLE:** A 501 (c) (3) with  
annual exempt purpose  
expenditures of **\$500,000**

Overall Lobbying Limit	<b>\$100,000</b>
Grassroots Lobbying Limit	<b>\$25,000</b>



1. Calculate organization's
2. Overall lobbying limit



Use our online  
calculator at [afj.org](https://afj.org)



3. Grassroots lobbying limit is 25% of overall limit

# Lobbying To Dos

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1. Track your lobbying;
2. Report your lobbying on IRS Form 990; and
3. Use funds that don't restrict lobbying.

NOTE: Fiscally sponsored organizations are subject to their fiscal sponsor's lobbying limits. Discuss with your sponsor how to track and report your lobbying.

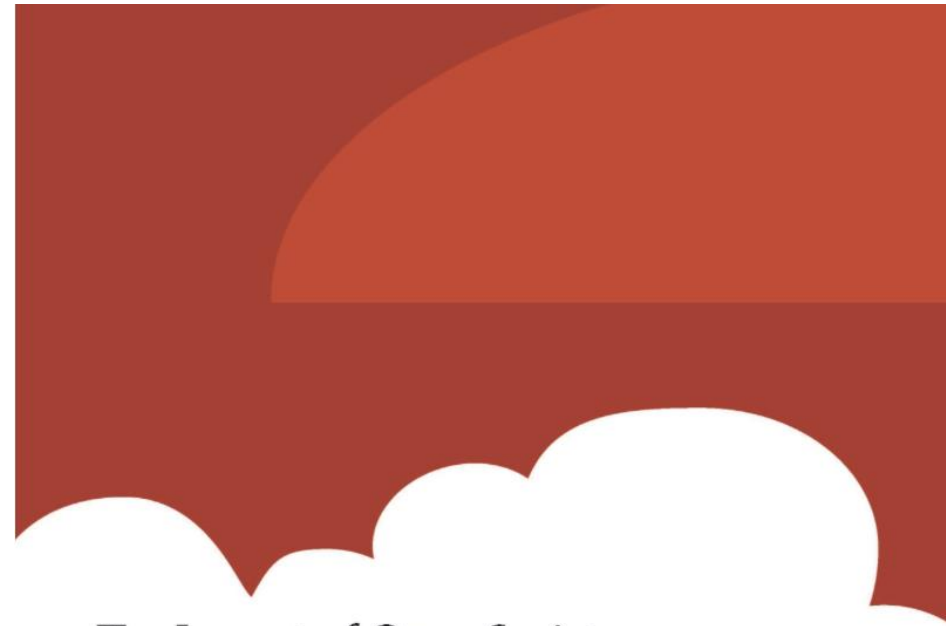




# Remember...

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- Not all advocacy counts as lobbying.
- Only lobbying needs to be counted against your lobbying limits.



The Impact of Open Society  
Foundation's Funding Withdrawal on  
the Sex Worker Rights Movement, and  
Recommendations for a Path Forward

**SWDC**  
SEX WORK DONOR COLLABORATIVE

WRITTEN BY  
 **STRENGTH IN NUMBERS**  
CONSULTING GROUP  
Beksahn Jang  
Erin Howe

# Lobbying Defined: Insubstantial Part Test

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# Lobbying Under the IPT

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- Communication to lawmakers to influence legislation
- Encouraging public to contact lawmakers to influence legislation
- Anything that advocates for or against legislation



# Lobbying Defined: 501(h) Expenditure Test

# Lobbying Under 501(h)

## DIRECT

Communication

Legislator

Expresses a view  
about specific  
legislation

## GRASSROOTS

Communication

General public

Expresses a view  
about specific  
legislation

Call to action



## DIRECT

### communication

legislator

expresses a view  
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legislation

## GRASSROOTS

### communication

general public

expresses a view  
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legislation

call to action

# Communication





# Legislators

(any level of government, include legislative staff)

## DIRECT LOBBYING

Communication

### Legislator

Expresses a view  
about specific  
legislation



# Also Legislators

(when participating in formulation of legislation / the legislative process)

## DIRECT LOBBYING

Communication

### Legislator

Expresses a view  
about specific  
legislation



**GOVERNOR**



**PRESIDENT**



**MAYOR**



# Also Legislators

(the public when voting on ballot measures)

## DIRECT LOBBYING

Communication

### Legislator

Expresses a view  
about specific  
legislation



People walk together during a "Rally to Stop the Six-Week Abortion Ban" held at Lake Eola Park on April 13 in Orlando, Florida. | Joe Raedle/Getty Images

<b>Lawmakers</b> (all levels)	<b>Executive Branch Official</b> (when participating in the formulation of legislation)	<b>The Public</b> (when voting on):	<b>Not a Legislating Government Official</b>
Federal Legislators	President	Ballot Measures	Police/Sheriff
State Legislators	Governor	Ballot Initiatives	District Attorney
County Commission	Mayor	Referenda	School Boards
Town Board of Supervisors		Constitutional amendments	Planning/Zoning Commissions
City & Tribal Council		Bond Measures	Housing Authorities

# Specific Legislation



## DIRECT LOBBYING

Communication

Legislator

**Expresses a view  
about specific  
legislation**

## GRASSROOTS

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Call to action

## EXAMPLES

- Budget
- Bills / Acts
- Nominations Requiring Legislative Confirmation
- Ballot Measures
- Asking Someone to Sponsor a Bill
- Proposed Ordinance

# NOT Specific Legislation

- Regulations
- Executive orders
- Enforcement of existing laws
- Litigation



President Joe Biden signs his first executive orders Wednesday in the Oval Office of the White House. "I think some of the things we're going to be doing are going to be bold and vital," he said in brief remarks during the appearance. "And there's no time to start like today." (AP/Evan Vucci)



# Call to Action

## DIRECT LOBBYING

Communication

Legislator

Expresses a view  
about specific  
legislation

## GRASSROOTS

Communication

General public

Expresses a view  
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legislation

**Call to action**



Call to Action Includes:	Call to Action Does <b>Not</b> Include (when standing alone):
Asking recipients to contact their legislators	Learn More
Providing contact information like phone number, twitter handle, email address, mailing address, etc.	Take Action
Providing mechanism to enable communication with legislators or	Support Our Efforts
Identifying recipient's legislators that are undecided about or opposed to the legislation	Get Involved

**NO PAID SICK DAYS FOR  
RESTAURANT EMPLOYEES.**



**AN “ENHANCED” DINING  
EXPERIENCE FOR  
RESTAURANT CUSTOMERS.**

Nearly half of all workers in Maine lack paid sick days.  
Support your fellow Maine workers and their right to recover from  
illness without endangering public health or losing a day's pay.

Contact your legislator and share your support of  
LD 1454, the Paid Sick Days Bill.

[www.MainaSneezes.org](http://www.MainaSneezes.org)

A woman with blonde hair, wearing a pink shirt, is sneezing into a white tissue. She is in a kitchen or food service area, with a blurred background showing other people in white uniforms.

## **SHE'LL BE YOUR SERVER TONIGHT... AND SHE'S PRETTY SURE IT'S CONTAGIOUS.**

Nearly half of all workers in Maine lack paid sick days and are forced to work through their illnesses in order to pay the bills.

*Support LD 1454, the Paid Sick Days Bill.*

*[www.MaineSneezes.org](http://www.MaineSneezes.org)*



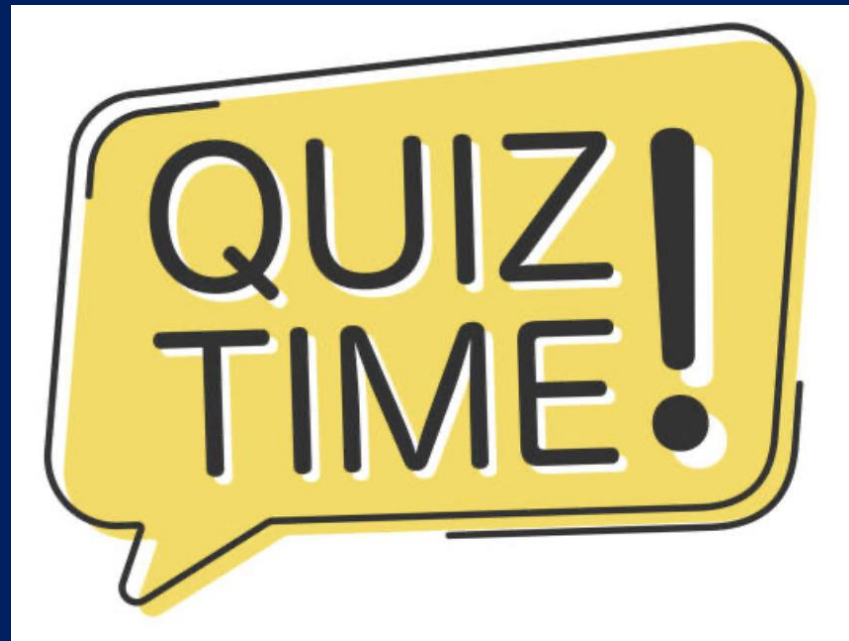
# Lobbying Exceptions

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Nonpartisan Analysis	Request for Technical Assistance	Self-Defense	Examinations and Discussions of Social Issues
<ul style="list-style-type: none"><li>• Full and fair discussion of all sides of the issue which would allow the reader to make an independent conclusion</li><li>• Broadly disseminated</li></ul>	<ul style="list-style-type: none"><li>• Organization invited in writing by committee</li><li>• Opinion or testimony must be available to all members of the committee</li></ul>	<ul style="list-style-type: none"><li>• Communication with a legislative body regarding possible actions which could affect the organization's existence, powers, duties, tax-exempt status, or the deductibility of contributions to the organization</li></ul>	<ul style="list-style-type: none"><li>• Communications to the public, legislative bodies, or governmental employees on general topics</li><li>• Must not refer to specific legislation or directly encourage the recipients to take action</li></ul>

# Is it Lobbying?

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What about posting this image and project description on your organization's website?



## Lifting the Stigma of Sex Work

June 2, 2022

UCLA's [Global Lab for Research in Action](#), in collaboration with a coalition of advocacy organizations, activists and researchers, has launched a data-driven national social awareness campaign to address the dangers and stigma that sex workers face. The [Red Umbrella Campaign](#) will share extensive research and amplify voices of individuals with lived experience in the sex trade to inform the public about the harms created by the criminalization of sex work. "Decades of research from around the world shows that the criminalization of sex work is what makes the work fundamentally unsafe, and impacts the safety of the wider community, too," said Janine N'jie David, co-founder and deputy director of the Global Lab, which is housed at the UCLA Luskin School of Public Affairs. Sex workers have a [45% to 75% chance of experiencing workplace violence](#), according to research. However, it is not only physical and sexual violence that prevents sex workers from being safe, but also constraints accessing housing, health care, other forms of employment and a myriad of basic needs. "Sex work tends to be a taboo subject, despite being one of the oldest professions in the world, and public knowledge is understandably limited," N'jie David said. "But we shouldn't allow our lack of understanding — or quite frankly, discomfort — prevent us from tackling challenging issues." The campaign, announced on June 2, International Sex Workers' Day, is led by UCLA's Global Lab in collaboration with [Decriminalize Sex Work](#), the [Woodhull Freedom Foundation](#), [Old Pros](#), and individual researchers and activists.

What about posting this image and comment on your organization's website?

No! Speaks about public education program and does not make legislative recommendations.



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What about sending this  
comment to your  
organization's newsletter  
subscribers?



## DECRIMINALIZING SEX WORK IS A MATTER OF HEALTH, SAFETY, AND SURVIVAL.

DC's sex workers have reported that they sometimes engage in their work as a matter of survival. Under criminalization, a sex worker can face a whole series of threats to their health and physical harm as they work, including the threat of an arrest and all the negative consequences that follow from that. Other places, like [New Zealand](#) and [Belgium](#), have moved towards a decriminalization model where research shows people who engage in sex work are employed, have more legal, health, and safety rights, and have better relations with police and their clients. DC should reintroduce and pass the [Community Safety and Health Amendment Act](#) to decriminalize sex work and repeal current solicitation laws in the code. DC should also provide additional services and support to sex workers, targeting the core reasons why they engage in this work to make a living, and direct police officers to explain to sex workers their rights when an encounter occurs.



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comment to your  
organization's newsletter  
subscribers?



## DECRIMINALIZING SEX WORK IS A MATTER OF HEALTH, SAFETY, AND SURVIVAL.

Under the insubstantial  
part test, YES!  
Under the 501(h)  
expenditure test, NO!

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# Key Takeaways & Resources

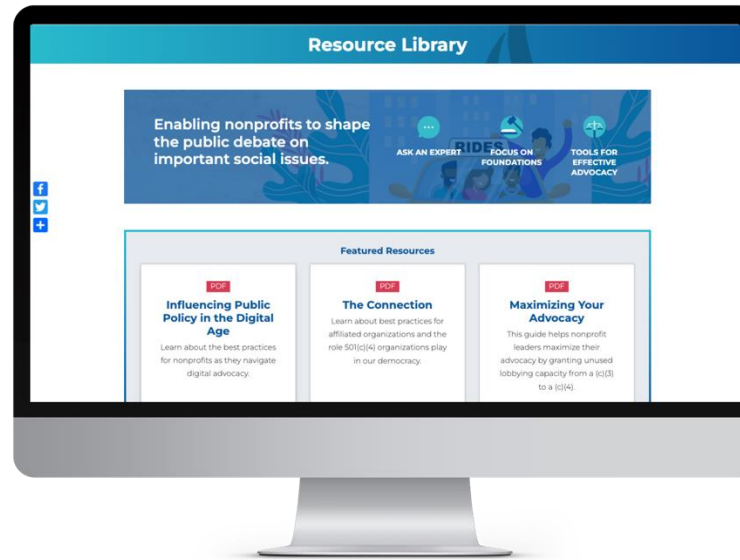
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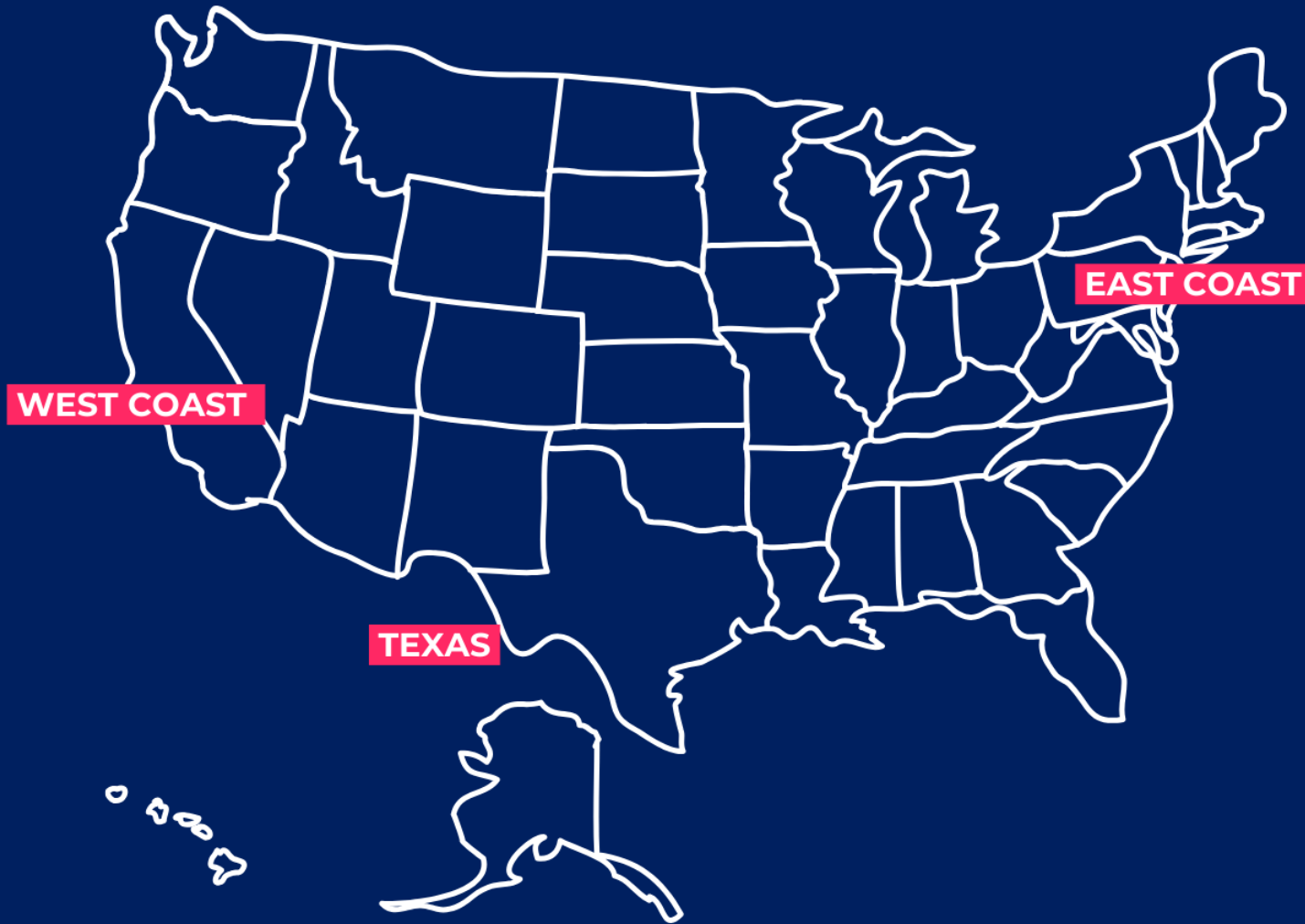


# Key Takeaways

- 501 (c) (3) organizations can advocate and lobby!
- 501 (c) (3) organizations must track and report their lobbying and stay within their lobbying limit.
- Most 501 (c) (3) organizations can maximize the amount of lobbying they can do by using the 501 (h) Expenditure Test.
- Not all advocacy activities are lobbying.

# Resources





# Connect With Us



Scan the QR code  
for Technical  
Assistance



[afi.org](https://afi.org)



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[@allianceforjustice](https://www.instagram.com/allianceforjustice)



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